

RECEIVED

AUG 16 2001

10720 Button Willow Drive
Las Vegas, NV 89134-7356
702-360-3118
FAX: 702-360-3119
rwhkc@earthlink.net

NEVADA ENVIRONMENTAL COALITION INC.

010396

August 12, 2001

Dr. Jane R. Summerson, EIS Document Manager
M/S 010, U.S. Department of Energy
Office of Civilian Radioactive Waste Management
Yucca Mountain Site Characterization Office
P.O. Box 30307
North Las Vegas, NV 890035-0307

Re: Draft and Supplement to the Draft Environmental Impact Statement (EIS) for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada (DOE/EIS-0250-D-S).

Dear Dr. Summerson:

1 We support Citizens Alert and the positions they have taken on the draft and supplement to the draft EIS noted above. The positions of Citizens Alert are adopted herein and made a part hereof for all purposes.

40 CFR §1502.14. Alternatives including the proposed action. "This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environmental (§1502.15) and the Environmental Consequences (§1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among operations by the decisionmaker and the public. In this section agencies shall: (a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated. (b) Devote substantial

Visit our Web site at www.neenew.org

treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits. (c) Include reasonable alternatives not within the jurisdiction of the lead agency. (d) Include the alternative of no action. (e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement unless another law prohibits the expression of such a preference. (f) Include appropriate mitigation measures not already included in the proposed action or alternatives."

2 | We reserve the right to raise the issues of alternatives at any step in an environmental impact statement proceeding. The draft and all supplements thereto are deficient regarding the discussions of alternatives, particularly the alternative of no action.

3... | The solution of sending radioactive waste from most of the 49 states ignores the Ninth and Tenth amendments to the Constitution of the United States.

The Ninth amendment states, "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people." The Tenth amendment states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The Congress has no constitutional power to send the radioactive waste from all or part of the other 49 states to Nevada. Nevada does not want the radioactive waste. The more than a million Nevada citizens living nearby do not want the radioactive waste. Both the state and the citizens have a right to demand the no action EIS alternative to Yucca Mountain, period. The NEC makes that demand herein.

By analogy, does the Congress have the right to send the garbage from all or most of the other 49 states to Rhode Island? That answer is obvious. The issue of Yucca Mountain should also be obvious. Yucca Mountain is an unconstitutional "not in my back yard" problem.

The issue must be decided by the people of Nevada. The Constitution of the United States places limits on the

August 12, 2001

Page 3

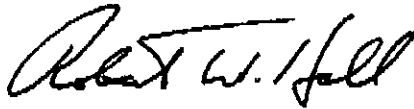
3 cont

central government. The laws enabling the current EIS process including the no action alternative, must include consideration of constitutional constraints and the obvious constitutional/environmental issues that are involved. Offending the constitution is not a "reasonable" alternative.

4

The NEC requests that it be placed on all mailing lists for notices of all notices, hearings and decisions regarding Yucca Mountain by the Department of Energy. The tolling of the NEC's appeal time regarding any appealable decision of the Department of Energy does not begin to toll until the NEC is notified of the decision.

Sincerely,



Robert W. Hall
President

c: Citizen Alert